

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

APPLETON PAPERS INC. and)	
NCR CORPORATION,)	
)	
Plaintiffs,)	
)	
v.)	No. 08-CV-00016-WCG
)	
GEORGE A. WHITING PAPER COMPANY, <i>et al.</i> ,)	
)	
Defendants.)	

NCR CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	No. 08-CV-895-WCG
)	
KIMBERLY-CLARK CORPORATION, et al.)	
)	
Defendants.)	

STATUS REPORT REGARDING FINAL JUDGMENT

Over the past several months, the parties have been working in good faith to resolve the open issues in the above-captioned matter to facilitate entry of final judgment. This Status Report provides an update on the status of final judgment.

Stipulation and Proposed Final Judgment

Concurrently with this Status Report, NCR Corporation (“NCR”) is filing, on behalf of itself and other parties, a Stipulation and a Proposed Final Judgment. The parties that have joined the Stipulation are:

1. NCR Corporation
2. Appleton Papers Inc.
3. CBC Coating, Inc.
4. City of Appleton
5. Georgia-Pacific Consumer Products LP (and related entities)
6. Menasha Corporation
7. Neenah-Menasha Sewerage Commission
8. P.H. Glatfelter Company
9. U.S. Paper Mills Corporation
10. WTM I Company
11. City of Green Bay
12. Kimberly-Clark Corporation
13. NewPage Wisconsin System Inc.
14. City of De Pere
15. George A. Whiting Paper Company
16. Green Bay Packaging, Inc.
17. Heart of the Valley Metropolitan Sewerage District
18. International Paper Company
19. Lafarge North America Inc.
20. Leicht Transfer & Storage Co.
21. Neenah Foundry Company
22. Wisconsin Public Service Corp.
23. United States of America

NCR has made numerous efforts to obtain the consent of the remaining parties,¹ including circulating the Proposed Final Judgment at least six times over the past several months. NCR notified all counsel several days ago that it would be moving for entry of final judgment today.

There are only a few open issues that need to be resolved before final judgment can be entered; those issues are addressed below. NCR respectfully requests that the Court enter the Proposed Final Judgment submitted with the parties' Stipulation once these open issues have been resolved.

Open Issues

1. Pursuant to the Court's January 4, 2013 Order (Dkt. #1471), NCR and P.H. Glatfelter ("Glatfelter") filed briefs on January 15, 2013, addressing the amount of the offset that should apply to the OU2-5 response costs incurred by Glatfelter. (*See* Dkt. #1475; Dkt. #1476.) This issue has now been fully briefed. When the Court enters an order concerning this issue, the relevant information, including the docket number for the order, can be added to the placeholders in Paragraph 10 of the Proposed Final Judgment.

2. NCR and Appleton Papers Inc. ("API") (collectively, "Plaintiffs") and certain *De Minimis* Defendants entered a Stipulation to resolve the open issues concerning the *De Minimis* Defendants' counterclaims, which are either pending or were dismissed without prejudice. (Dkt. #1457.) The Court approved the proposed judgment (Dkt. #1466) but subsequently withdrew it because open issues remain as to other parties (Nov. 5, 2012 Text Order). On January 18, 2013, Plaintiffs and the stipulating *De Minimis* Defendants filed a Joint Motion for Entry of Order (Dkt. #1477), and submitted therewith a Proposed Order, rather than a

¹ The parties that have not yet approved the Proposed Final Judgment are: Brown County; Green Bay Metropolitan Sewerage District; the Procter & Gamble Paper Products Company; and Union Pacific Railroad Company.

Proposed Judgment (Dkt. #1477-1). That Joint Motion is still pending. If the Court grants the Motion and enters the Proposed Order, then the docket number for that order can be added to the applicable placeholders in the Proposed Final Judgment (specifically, in the final WHEREAS clause and in Paragraphs 17 and 20).

3. Plaintiffs and U.S. Paper Mills Corporation (“U.S. Paper”) entered a Stipulation concerning U.S. Paper’s judgment against NCR. (Dkt. #1479.) If the Court approves the Stipulation and enters the Proposed Order, then the docket number for that order can be added to the placeholder in Paragraph 11 of the Proposed Final Judgment.

4. To facilitate entry of final judgment, Plaintiffs have agreed to numerous revisions requested by other parties. In doing so, Plaintiffs have reserved their rights (in emails sent to all counsel of record) as to numerous issues, to avoid any future misunderstandings about the significance of the revisions. Plaintiffs do not believe it is necessary to bring the specific nature of these issues to the Court’s attention at this time. Plaintiffs mention these reservations of rights only to avoid an argument by the parties that have not yet stipulated to the Proposed Final Judgment that Plaintiffs have somehow waived any rights through revisions that were made to the Proposed Final Judgment.

Dated: February 5, 2013

Respectfully submitted,

NCR CORPORATION

/s/ Darin P. McAtee

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